

REMARKS

In the Office Action dated April 12, 2002, the Examiner rejected all of the pending claims 1 through 14 under 35 U.S.C. §103(a) as being unpatentable over *Ellington, III*, in view of *Porter and Hester, Jr.* The Applicant traverses this rejection. The Examiner has failed to set forth a *prima facie* conclusion of obviousness. The initial burden is on the Examiner to provide some suggestion of desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention, where the Examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 277 U.S.P.Q. 972, 973 (Bd. Pat. App. & Inter. 1985).

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be both found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPSP2d 1438 (Fed. Cir. 1991); *See*, MPEP §2143 - §2143.03 (for decisions pertinent to each of these criteria).

The initial burden is on the Examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973, (Bd. Pat. App. & Inter. 1985); *See*, MPEP § 2144 - § 2144.09 (for examples of reasoning supporting obviousness rejections).

The references cited by the Examiner, either alone or in combination, do not expressly, implicitly or by suggestion disclose all of the elements of the claimed invention. The Examiner has cited non-analogous art, and as a result has failed to submit references that disclose any elements of the overall invention.

With respect to claim 1, the Examiner cited *Ellington, III* as a basis for rejection; however, *Ellington* fails to disclose a number of elements in the claimed invention, and cannot reasonably be modified as suggested by the Examiner. The Examiner rejected claim 1 solely on the *Ellington, III* reference, stating that it would have been a matter of obvious design to produce a large enough walkway for people to use and to form mating ends.

Claim 1 is for a “portable walkway for use in interconnecting two or more structures.” The particular limitations of novelty include, but are not limited to, a rectangular base from steel reinforced concrete, having first and second ends and female joint portions formed within the ends. *Ellington, III* discloses a transportable building module, and does not disclose a portable walkway. The typical module in *Ellington, III*, is 12 feet wide and 44 feet long, which size is unusually large and awkward to handle as a unit for a walkway. Moreover, *Ellington III*, describes a particular point of novelty reside in the roof design which includes a bar joist roof system. (col. 4, lines 40-67, and col. 5, lines 1-19). This roof design permits air condition, heating ducts, electrical conduits and plumbing to be threaded through the open trusses, further supporting the Applicant’s position that *Ellington III*, can not be reasonably interpreted to disclose a walkway.

The transportable building includes a floor structure having reinforced cement slab disposed within strength members 12A, 12B, 14A and 14B. The female joints of the present invention can not be formed within ends of the concrete slab because the concrete slab is surrounded by steel members 12A and B, and 14A and B. Modifying the steel members cannot be a simple choice of design. As set forth in column 6, lines 28 through 35, the plurality of the buildings are placed in abutting side-to-side to form a larger building, in which case female joints are not necessary, and as much as the strength members cover the ends of the concrete slabs, female joints cannot be made within the concrete slab.

With respect to claims 4 and 5, the Applicant is confused as to why the Examiner addresses these claims in the context of rejecting claim 1. Claims 4 and 5 are dependent from claim 2. Claim 2 is for a walkway path comprising a plurality of walkway units. The Examiner rejected claim 2, citing *Ellington III*, explaining that while *Ellington III* does not show a means of interconnecting individual walkway units, the *Porter* reference shows such a means for transport, and it would have been obvious to use the interconnection means of *Porter* and the structure of *Ellington*. However, the Examiner fails to address the more fundamental element of

claim 2. That is, the *Ellington* reference does not disclose a plurality of walkway units. As pointed out above, the modular building of *Ellington III* can not be interpreted to disclose a walkway unit, much less a plurality of units joined end-to-end.

Inasmuch as claim 3, 4 and 5 is dependent from claim 2, the rejections for each of these claims must also fail.

Claims 6 through 11 are directed to a system for joining a series of buildings by non-permanent structures, the system comprising a series of portable modular walkway units. The Examiner rejected claims 6, 7 and 11, stating that the claimed system for joining is the obvious method of joining *Ellington*'s modified transportable building module. The Examiner has equated the *Ellington*'s transportable building with the claimed portable modular walkway unit of claim 6. As pointed out above, *Ellington* does not disclose a walkway unit, but discloses a transportable building module, and is not designed for interconnecting adjacent modules as claimed in the present application.

The Examiner rejected the method claims 12 through 14, claiming the method was the obvious method of using *Ellington*'s modified transportable building module. Again, the Applicant points out that the claimed method is a method for providing a covered walkway between two or more buildings. At most, *Ellington* discloses a method for constructing a modular building, but cannot be interpreted to include the steps of:

constructing a series of different covered walkway units...each of the units having a concrete base with one or more joints formed within the base; ...and, interconnecting the walkway units in an end to end relationship to form a pathway.

As pointed out above, the strength members 12A, 12B, 14A and 14B, prevent one from constructing the concrete base with "one or more joints formed within the base." (emphasis added).

The Applicant respectfully requests the Examiner to add the claims 15 through 26. Claims 15 through 25 are directed to a walkway path, which included a "self-anchoring" base, described in more details on pages 16 and 17 of the specification. The method claim 26 contains a similar limitation. The patents cited by the Examiner and included in the accompanying IDS do not disclose such a feature.

In view of the foregoing, Applicant respectfully requests reconsideration of claims 11-14. If further prosecution of the application can be facilitated through a phone call, the Examiner may reach the undersigned at (407) 926-7706.

Respectfully submitted,



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